

REMARKS**I. Petition for Extension of Time**

Applicants herewith petition the Commissioner for Patents to extend the time for response to the Office action mailed December 22, 2003 for two months from March 22, 2004 to May 22, 2004. Authorization is given to charge the extension of time fee of \$420.00 (37 C.F.R. §§1.136 and 1.17) to Deposit Account No. 23-1703. Any deficiency or overpayment should be charged or credited to the above numbered deposit account.

II. Claim Amendment

The claimed invention is directed to an oral pharmaceutical formulation comprising at least one bisphosphonate and one or more additive agents. Claim 1 has been amended to clarify that the one or more recited additive agents is present in an amount between 80% to 99.9% by weight of the formulation to enhance absorption of the bisphosphonate. Support for the amendment is provided by the specification at page 9, lines 23-25. According, no new matter is introduced by the claim amendment.

III. Claim Rejection – 35 U.S.C. §102

Claims 1-4, 19, 23, 25, 27, 29-34 and 39-46 are rejected for lack of novelty under 35 U.S.C. §102(b) in view of US 5,646,134 to Yates ("Yates"). The Examiner alleges that Yates discloses oral dosage forms comprising a bisphosphonate in combination with the additives of claim 1 for the prevention of bone loss.

Anticipation requires the disclosure of each and every feature of the claimed invention in a single reference. Claim 1, the only independent claim, has been amended to recite that the

CONCLUSION

Applicants submit that pending claims 1-21, 23-34, 40-42 and 45-47 are in condition for allowance, which action is earnestly solicited. The Assistant Commissioner is hereby authorized to charge Deposit Account No. 23-1703 in the event that any fee is required in connection with this communication.

Dated: 20 May 2004

Respectfully submitted,



John M. Genova
Reg. No. 32,224
Attorney for Applicants

Customer No. 007470
(212) 819-8200